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| EXAMINER |
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RUSTEMEYER, BRETT J

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2426

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/512,052 | Applicant(s) MARUYAMA ET AL. | |
| | Examiner BRETT RUSTEMEYER | Art Unit 2426 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2009 (Applicants' Submission).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 25-36 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 25-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to Applicants' submission of an AMENDMENT entered July 28, 2009 for the patent application, 10/512,052, filed October 21, 2004.
2. The Office action of April 3, 2009 is fully incorporated into this Final Office action by reference.

Status of Claims

3. Claims 1-23, and 25-36 are pending.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 1-23 and 25-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Regarding claims 1 and 27, & 28, there is insufficient antecedent basis in the claims for the limitation "the **same** single user action" rendering the claims indefinite. Amending the language in claim 1 to "[...] every time the single user action to the controller is repeated [...]", or the like, would overcome this rejection.

- b. Claims 2-23, 25-26, and 29-36 are rejected in accordance with section (a) above as being dependent from claim 1.

- c. Regarding claim 1, there is insufficient antecedent basis in the claims for the limitation “the **respective** selection order management table” rendering the claim indefinite. It is noted a selection order management table stored by a content providing station may not be the respective selection order management table.
- d. Claims 2-23, 25-26, and 29-36 are rejected in accordance with section (c) above as being dependent from claim 1.
- e. Regarding claim 12, there is insufficient antecedent basis in the claims for the limitation “the **information**” rendering the claim indefinite.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

Claims 1-14, 16-23, and 25-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application, “2003/0105763 A1”, to Chatfield et al., hereinafter

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“**Chatfield**”, in view of United States Patent, “6,269,394 B1”, to Kenner et al., hereinafter “**Kenner**”.

Examiner’s Note (EN): The claims as written appear to contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art what the Applicant regards as the invention, and that the inventor(s), at the time the application was filed, had possession of the claimed invention as discussed in ¶ 4 and 5 above. Notwithstanding such concern, for the sake of compact prosecution, the Examiner will endeavor to cite potentially relevant prior art potentially rendering the character of the invention unpatentable. It appears the teaching of **Chatfield** and **Kenner** renders the character of the Applicants’ invention unpatentable as applied with specific sections identified as follows. ¶ 14 applies.

Regarding claim 1,

Chatfield reads on:

*A content selection method in a network interconnecting a content selection requesting station and a [...] content providing station [...], the [...] content providing station [...] connected to a plurality of contents or content providing devices, the content selection method for selecting, by the [...] content providing station [...], a content or content providing device from among the plurality of contents or content providing devices, in which the content selection requesting station selects from [...] the [...] content providing station [...] that in turn select from among the contents or content providing devices (**Chatfield**, FIG. 1, ¶ 0022, 0026, 0033-34; EN: wherein the open access network reads on the *network*, the workstation of an end user*

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reads on the *content selection requesting station*, the components of the data center read on the *content providing station*, the various service providers and their respectively held content read on the *plurality of contents or content providing devices*), comprising:

the content selection requesting station storing a selection rule for selecting [...] the content providing station [...] (**Chatfield**, ¶ 0028-29, 0032, & 0034; EN: wherein each time the user makes a request for a service, the request is routed via the access network to the data center; thereby reading on the *selection rule*);

a controller transmitting a content switching instruction to the content selection requesting station in accordance with a single user action to the controller (**Chatfield**, ¶ 0026, 0032-33, & 0060; EN: wherein the various input devices read on the *controller*, and the singular act of inputting a service request from an input device to the workstation of the end user reads on *transmitting a content switching instruction to the content selection requesting station in accordance with a single user action to the controller*);

the content selection requesting station, which has received the content switching instruction, transmitting the content switching instruction to a content providing station (**Chatfield**, FIG. 4B, ¶ 0033, & 0046; wherein sending the request to the data center reads on *transmitting the content switching instruction to a content providing station*); and

wherein, [...] the content providing station stores a selection order management table indicative of an order for selecting from among the plurality of contents or content providing devices (**Chatfield**, FIG. 6, ¶ 0038, & 0054; EN: wherein the database structure reads on the *selection order management table*), and every time the same single user action to the controller is performed (**Chatfield**, ¶ 0026, 0032-33, 0060; EN: i.e., the singular act of inputting a service

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request from an input device to the workstation), *the content providing station refers to the respective selection order management table and switches the content or content providing device to be selected to a content or content providing device of an order following an order of a currently selected content or content providing device in the respective selection order management table in a case where the content or content providing device of the order following the order of the currently selected content or content providing device is present in the respective selection order management table* (**Chatfield**, FIG. 6, ¶ 0054-0056).

Chatfield is silent on (See italics; regular style text provided for context only):

[...] *a plurality of content providing stations, the plurality of content providing stations each connected to a plurality of contents or content providing devices, the content selection method for selecting, by the plurality content providing stations, a content or content providing device [...], in which the content selection requesting station selects from among the plurality of content providing stations that in turn select from among the contents or content providing devices, comprising:*

the content selection requesting station storing a selection rule for selecting from among the content providing stations;

[...]

Kenner reads on (See italics; regular style text provided for context only):

[...] *a plurality of content providing stations* (**Kenner**, FIG. 4, C 21: L5-54, C 22: L 45-50, C 27: L 8-23; wherein the PIM from the home region and IM's from other regions read on *a plurality of content providing stations*), *the plurality of content providing stations each*

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connected to a plurality of contents or content providing devices (Kenner, FIG. 4, C 27: L 8-41; EN: See extended SRUs 66, 92, & 100), the content selection method for selecting, by the plurality content providing stations, a content or content providing device [...], in which the content selection requesting station selects from among the plurality of content providing stations that in turn select from among the contents or content providing devices (Kenner, FIG. 4, C 25: L 26-28, 56 – C 26: L 12, C 27: L 8-41) comprising:

the content selection requesting station storing a selection rule for selecting from among the content providing stations (Kenner, FIG. 4, C 25: L 26-28, 56 – C 26: L 12, C 27: L 8-41; EN: wherein each time the user makes a request for a service, the request is routed via the network to the PIM);

[...]

Rationale:

It would have been obvious to one ordinarily skilled in the art, to apply the technique of retrieving desired audio/visual content from other web based servers as described by **Kenner** to improve the search and communication capabilities of the data center of **Chatfield** for the predictable result of increasing the number of available services and service providers to an end user.

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Regarding claim 2,

Chatfield reads on:

sending back the content held by the content providing station, from the content providing station that has received the content switching instruction, to the content selection requesting station (Chatfield, ¶ 0033; EN: wherein providing reads on sending back).

Regarding claims 3 and 36,

Chatfield reads on:

the content selection requesting station storing information for specifying a content providing station, an associated content, and an associated content providing device (Chatfield, ¶ 0032-33, 0034, 0046; EN: wherein a service provider name reads on information for specifying a content providing station, a particular service name reads on the information for specifying ... an associated content. See “IPsec”, which renders the use of a destination IP address in the header, or virtual path identifier, “ATM mode” for establishing a connection between the end-user and the preferred service provider with respect to information for specifying ... an associated content providing device) that have been most recently selected by the content selection requesting station (Chatfield, ¶ 0033-34; EN: Since the end user accesses a provider’s offered services by selecting her preferred services via a workstation coupled to a web server, the end user’s workstation inherently stores/buffers such information for processing, display, and transmission); and

the content selection requesting station resuming, in accordance with the information for specifying the content providing station and the associated content providing device that have

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been most recently selected by the content selection requesting station (Chatfield, FIG. 6, ¶ 0038, & 0054; EN: See, e.g., database structure), connection with the content providing station and the associated content providing devices having the associated content that have been most recently selected by the content selection requesting station (Chatfield, ¶ 0033, 0040, & 0046), if the content requesting station has previously received the associated content from the associated content providing device of the content providing station and the connection has been stopped (Chatfield, ¶ 0032, 0034, 0040, & 0046).

Regarding claim 4, Chatfield discloses the respective limitations of claim 3.

Chatfield further reads on:

[...]

the content providing station storing information for specifying an associated content or content providing device that has been most recently selected by the content selection requesting station (Chatfield, ¶ 0032, 0038, & 0054; EN: Since the data center receives the end user's selection through a communication session and provides said user with their selected service(s) over the network, their selection information is stored or buffered for retrieval, processing, and transmission.); and

resuming, in accordance with these sets of the information for specifying the content providing station that has been most recently selected by the content selection requesting station and the information for specifying the associated content or content providing device that has been most recently selected by the content selection requesting station (Chatfield, FIG. 6, ¶ 0038, & 0054), connection between the content selection requesting station and the content

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providing station that has been most recently selected by the content selection requesting station, [...], or if the content selection requesting station has previously received a content from the content providing device of the content providing station and the connection has been stopped (Chatfield, ¶ 0032, 0034, 0040, & 0046).

Regarding claims 5 and 6,

Chatfield discloses the respective limitations of claims 3 and 4.

Chatfield is silent on the length the data is stored.

Rationale:

Official Notice is taken that both the concept and advantage of deleting an inactive user's account comprising their transaction history was notoriously well known and expected in the art, at the time of the invention, and therefore would have been obvious to incorporate in **Chatfield** for the benefit of maintaining the records of valuable customers.

Regarding claim 7,

Chatfield reads on:

the content providing station transmits, to the content selection requesting station, information regarding a content that is to send back to the content selection requesting station (Chatfield, ¶ 0033).

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Regarding claims 8 and 9,

Chatfield reads on:

the content providing station transmits, to the content selection requesting station, information regarding a content or content providing device that is available to be selected next by the content selection requesting station (Chatfield, ¶ 0032, 0034, & 0038).

Regarding claim 10,

Chatfield reads on:

the selection rule [...], which is stored in the content selection requesting station, is to reselect a content providing station [...] (**Chatfield**, ¶ 0028-29, 0032, & 0034)

Chatfield is silent on (*See italics; regular style text provided for context only*):

at least two content providing stations are targeted for selection;

the selection rule *regarding the at least two content providing stations*, [...] is to reselect a content providing station *that has been selected first, after selection of each of the at least two content providing stations targeted for selection is performed in turn in accordance with the selection rule.*

Kenner reads on:

at least two content providing stations are targeted for selection (Kenner, FIG. 4, C 25: L 26-28, 56 – C 26: L 12, C 27: L 8-41; EN: See, e.g., PIM 64, IM 88, and IM 90);

the selection rule *regarding the at least two content providing stations*, [...] is to reselect a content providing station *that has been selected first, after selection of each of the at least two*

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content providing stations targeted for selection is performed in turn in accordance with the selection rule (Kenner, FIG. 4, C 25: L 26-28, 56 – C 26: L 12, C 27: L 8-41; EN wherein upon retrieval a desired content from either IM 88 or 90, the each subsequent request for a service will be is routed via the network to the PIM.)

Rationale:

It would have been obvious to one ordinarily skilled in the art, to apply the technique of retrieving desired audio/visual content from other web based servers as described by **Kenner** to improve the search and communication capabilities of the data center of **Chatfield** for the predictable result of increasing the number of available services and service providers to an end user.

Regarding claim 11,

Chatfield reads on:

if there still remains a content or content providing device to select, the thus selected one of the content providing stations selecting, in accordance with a predetermined content selection rule (Chatfield, FIG. 6, ¶ 0032, 0034, 0038, & 0054-56), a content or content providing device to select next, and the thus selected one of the content providing stations transmitting what is contained in the content or content providing device to select next, to the content selection requesting station (Chatfield, ¶ 0032-34, & 0038); and

if there remains no content or content providing device that is to select, the thus selected one of the content providing stations transmitting information that there remains no content or content providing device to select (Chatfield, FIG. 4C , ¶ 0040, 0047-50).

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Regarding claim 12,

Chatfield reads on:

when receiving the information that there remains no content or content providing device to select, the content selection requesting station changes a content providing station connected to the content selection requesting station, in accordance with the selection rule for selecting from among the content providing stations (Chatfield, FIG. 4C, ¶ 0040, 0047-050).

Regarding claim 13,

Chatfield reads on:

the content selection requesting station confirming

(i) a communication state regarding communication between the content selection requesting station and the thus selected one of the content providing stations (Chatfield, ¶ 0046, 0050, & 0068 / Alternatively, See “alternate service provider” state with reference to FIG. 6, ¶ 0034, 0038, 0044), and

(ii) a response state regarding responding from the thus selected one of the content providing stations (Chatfield, ¶ 0046, 0050, & 0068); and

if the communication state is less than a level, the content selecting requesting station selecting a different content providing station to select next in accordance with the selection rule for selecting from among the content providing stations (Chatfield, ¶ 0046-47, & 0051).

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Regarding claim 14,

Chatfield reads on:

the content providing station confirming

(i) a communication state regarding communication between the content providing station and a content that is to send back (Chatfield, ¶ 0046, 0050, & 0068 / Alternatively, See “alternate service provider” state with reference to FIG. 6, ¶ 0034, 0038, 0044), and

(ii) a response state regarding responding with respect to the content that is to send back (Chatfield, ¶ 0046, 0050, & 0068); and

if the communication state is less than a level, the content providing station sending back a content that is to be selected next in accordance with a predetermined content selection rule (Chatfield, ¶ 0046-47, & 0051).

Regarding claim 16,

Chatfield reads on:

in a state where a content that the content providing station is about to send back is in use, the content providing station sending back a content that is to be selected next to the content that the content providing station is about to send, in accordance with a predetermined content selection rule (Chatfield, ¶ 0046-47, & 0051).

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Regarding claim 17,

Chatfield reads on:

the state where the content is in use is a state where the content is being used by another content selection requesting station, or a state where a user on the content providing station side is using the content without using the content selection requesting station (**Chatfield**, FIG. 1, ¶ 0023-24, 0034, & 0038).

Regarding claim 18,

Chatfield reads on:

the content selection requesting station confirming

(i) a communication state regarding communication between the content selection requesting station and the thus selected one of the content providing stations (**Chatfield**, ¶ 0046, 0050, & 0068 / Alternatively, See “alternate service provider” state with reference to FIG. 6, ¶ 0034, 0038, 0044), and

(ii) a response state regarding responding from the thus selected one of the content providing stations (**Chatfield**, ¶ 0046, 0050, & 0068); and

if the communication state is less than a level, the content selection requesting station providing, to the operator, information that the communication state is less than the level (**Chatfield**, ¶ 0034, 0050 / Alternatively, FIG. 6, ¶ 0034, & 0038).

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Regarding claim 19,

Chatfield reads on:

the content providing station confirming

(i) a communication state regarding communication between the content providing station and the content providing device thus selected (Chatfield, ¶ 0046, 0050, & 0068 / Alternatively, See “alternate service provider” state with reference to FIG. 6, ¶ 0034, 0038, 0044), and

(ii) a response state regarding responding with respect to the content providing device thus selected (Chatfield, ¶ 0046, 0050, & 0068);

if the communication state is less than a desired level, the content providing station transmitting, to the content selection requesting station, information that the communication state is less than the level (Chatfield, ¶ 0034, 0050 / Alternatively, FIG. 6, ¶ 0034, & 0038);

the content selection requesting station receiving the information (Chatfield, ¶ 0034, & 0050); and

the content selection requesting station providing, to the operator, information that the communication state between the content providing station and the content providing device thus selected is less than the level (Chatfield, ¶ 0034, & 0050-51; EN: e.g., service provider unable to provide service from the service provider’s equipment / Alternatively, i.e., the content providing device is an alternate service provider).

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Regarding claim 20,

Chatfield reads on:

the state where the communication state is less than the level is a state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the level (Chatfield, ¶ 0032, 0034, 0050 & 0068; EN: e.g., it is not possible to set up a network path between a selected alternate service provider and the end user).

Regarding claim 21,

Chatfield reads on:

the state where the communication state is less than the level is
(i) a state where a station at the other end is not turned on, (ii) a state where no response is received because the station at the other end is at a distance from the content selection requesting station such that the station at the other end cannot sufficiently receive the transmitted content switching instruction, or (iii) a state where the thus selected one of the content providing stations is physically disconnected from the content providing device (Chatfield, ¶ 0050 & 0068).

Regarding claim 22,

Chatfield reads on:

in providing, to the operator, information that the communication state between the content selection requesting station and the selected one of the content providing stations is less

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than the level (Chatfield, ¶ 0034, 0046, 0050, & 0068 / Alternatively, “alternate service provider” state – FIG. 6, ¶ 0034, 0038, 0044), when the communication level is as such, the content selection requesting station distinctly informing the operator whether the communication state is

(A) a communication state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the desired level (Chatfield ¶ 0032, 0034, 0050 & 0068; EN: i.e., it is not possible to set up a network path between the selected alternate service provider and the end user, requiring a different alternate service provider or a default service provider to provide the requested service) or

(B) a communication state where (i) a station at the other end is not turned on, (ii) no response is received because the station at the other end is at a distance from the content selection requesting station such that the station at the other end cannot sufficiently receive the transmitted content switching instruction, or (iii) the content providing device is physically disconnected (Chatfield, ¶ 0050 & 0068).

Regarding claim 23,

Chatfield reads on:

in providing, to the operator, information that the communication state between the content selection requesting station and the content providing device thus selected is less than the desired level (Chatfield, ¶ 0034, 0046, 0050, & 0068 / Alternatively, “alternate service provider” state – FIG. 6, ¶ 0034, 0038, 0044), when the communication level is as such, the

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content selection requesting station distinctly informing the operator whether the communication state is

(A) a communication state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the desired level (Chatfield, ¶ 0032, 0034, 0050 & 0068; EN: i.e., it is not possible to set up a network path between the selected alternate service provider and the end user, requiring a different alternate service provider or a default service provider to provide the requested service), or

(B) a communication state where (i) a station at the other end is not turned on, (ii) no response is received because the station at the other end is at a distance from the content selection requesting station such that the station at the other end cannot sufficiently receive the transmitted content switching instruction, or the content providing device is physically disconnected (Chatfield, ¶ 0050 & 0068).

Regarding claim 26,

Chatfield reads on:

the selection rule is stored only in the content selection requesting station (Chatfield, ¶ 0034, 0057; EN: wherein the data center is and end user's workstation are "a single computer system"); and

the content or content providing device is held only by the content providing station (Chatfield: ¶ 0050; EN: wherein restrained from access reads on held).

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Regarding claim 27,

Chatfield reads on the respective limitations of claims 1 and 4 (EN: the limitation of *each said* is interpreted as *each said content providing station* ... upon selection).

Chatfield is silent on:

if the content to be sent back is not available for viewing, each said content providing station transmitting the control signal to the content so as to cause the content to be available for viewing.

Kenner reads on:

if the content to be sent back is not available for viewing, each said content providing station transmitting the control signal to the content so as to cause the content to be available for viewing (**Kenner**, C 8: L 55-67, C 25: L 44 - C 26: L 16; EN: **Kenner** discloses a system and method for delivery of video and data over a computer network. A user terminal sends a user's request for video or data to the Primary Index Manager (PIM) via a Search and Retrieval Unit (SRU). The PIM determines whether the user has access to a copy of the requested video or data locally and further determines a local copy is the current version. If the requested video or data is locally unavailable, unavailable from the PIM, or the incorrect version, the PIM sends a control signal to other Index Managers (IM) to locate and make said video or data available for download to the user).

Rationale:

It would have been obvious for one skilled in the art, to use the system and method for retrieving the current version of said video or data taught by **Kenner** in the respective elements

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of the data center and a service provider's head end taught by **Chatfield**. Using the known technique of locating, retrieving and updating said video or data for fulfilling an end user's content selection request would have been obvious to one of ordinary skill.

Regarding claim 28,

Chatfield reads on the respective limitations of claims 1, 4, and 27.

Chatfield is silent on:

when the content to be sent is changed from a first content to a second content, the content providing station transmitting a control signal to the first content so as to cause the first content to be not in use.

Kenner reads on:

when the content to be sent is changed from a first content to a second content, the content providing station transmitting a control signal to the first content so as to cause the first content to be not in use (**Kenner**, C 25: L 44 - C 26: L 16; EN: wherein an incorrect version reads on the *first content* and a current version reads on the *second content*).

Rationale:

It would have been obvious for one skilled in the art, to use the system and method for retrieving the current version of said video or data taught by **Kenner** in the respective elements of the data center and a service provider's head end taught by **Chatfield**. Using the known technique of locating, retrieving and updating said video or data for fulfilling an end user's content selection request would have been obvious to one of ordinary skill.

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Regarding claim 29,

Chatfield reads on:

a content selection requesting station which selects a desired content or content providing device from among contents or content providing devices that a plurality of content providing stations have (Chatfield, ¶0032, & 0034), wherein:

the content selection requesting station transmits a content switching instruction to the content providing station according to the method as set forth in claim 1 (Chatfield, ¶ 0023, 0033; EN: As in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 30,

Chatfield reads on:

a content providing station which, when selected by a content selection requesting station, transmits, to the content selection requesting station, what is contained in the content or content providing device that the content providing station has (Chatfield, ¶ 0033), wherein:

the content providing station receives a content switching instruction from the content selection requesting station according to the method as set forth in claim 1 (Chatfield, ¶ 0033; EN: As in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 31,

Chatfield reads on:

a content switching instruction device for use in the method as set forth in claim 1, which transmits, to a content selection requesting station, a content switching instruction given by an

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operator (Chatfield, ¶ 0032-33, 0060; EN: As in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 32,

Chatfield reads on:

wherein the content switching instruction device transmitting the content switching instruction given by the operator (Chatfield, ¶ 0026, 0032-33, & 0060).

Chatfield is silent on:

the switching instruction is transmitted without using the content selection requesting station.

Rationale:

Official Notice is further taken that both the concept and advantage of transmitting signals to a workstation over a local area network (LAN) was notoriously well known and expected in the art, at the time of the invention, and therefore would have been obvious to incorporate in **Chatfield** for the benefit of providing end users the spatial flexibility to transmit signals from other computing devices on a network as desired by **Chatfield** in ¶ 0068.

(The remainder of this page was intentionally left blank)

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Regarding claim 25,

Chatfield reads on respective limitations of claim 32.

Chatfield further reads on:

[...] if the content selection requesting station is selected as an external connection device for a display device when the content selection requesting station receives the content selection switching instruction entered by the operator, the content selection requesting station performs content selection or content providing device selection (Chatfield, ¶ 0032-33) [...]

Regarding claim 33,

Chatfield reads on:

a program for causing a computer to implement the method as set forth in claim 1 (**Chatfield**, ¶ 0060-64; EN: As in accordance with Examiner's remarks and citations to claim 1).

Regarding claim 34,

Chatfield reads on:

a computer-readable recording medium storing a program for causing a computer to implement the method as set forth in claim 1 (**Chatfield**, ¶ 0060-64; EN: As in accordance with Examiner's remarks and citations to claim 1).

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Regarding claim 35,

Chatfield reads on:

a network system having content selection requesting station, and a plurality of content providing stations wherein the method as set forth in claim 1 is performed (**Chatfield**, FIG. 1, ¶ 0022; As in accordance with Examiner's remarks and citations to claim 1),

the content selection requesting station selecting a desired content from among contents that the content providing stations have (**Chatfield**, ¶ 0023, & 0033),

the content selection requesting station transmitting a content switching instruction to each of the content providing stations according to a method as set forth in claim 1 (**Chatfield**, ¶ 0026, 0032-33, & 0060; EN: As in accordance with Examiner's remarks and citations to claim 1 when in the event the end user has requested service from each of the service providers as a function of time),

each of the content providing stations, when selected by the content requesting station, transmitting to the content selection requesting station, what is contained in content that the content providing station has (**Chatfield**, ¶ 0032-33; EN: e.g., in the event the end user has requested service from each of the service providers as a function of time),

each of the content providing stations receiving the content switching instruction from the content selection requesting station according to the method as set forth in claim 1 (**Chatfield**, FIG. 4B, ¶ 0033, & 0046).

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Chatfield** in view of **Kenner** further in view of United States Patent Application Number, “2005/0114445

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A1”, to Tracton et al., hereinafter “**Tracton**”. It appears the teaching of **Chatfield**, **Kenner**, and **Tracton** renders the character of the Applicants’ invention unpatentable as applied with specific sections identified as follows. ¶ 14 applies.

Regarding claim 15,

Chatfield is silent on:

in the case where bandwidth available for communication between the content selection requesting station and the content providing station is narrower than bandwidth necessary for transmitting a content that the content providing station is about to send back, the content providing station transmitting a content that is to be selected next to the content that the content providing station is about to send back, in accordance with the a predetermined content selection rule.

Tracton reads on

in the case where bandwidth available for communication between the content selection requesting station and the content providing station is narrower than bandwidth necessary for transmitting a content that the content providing station is about to send back, the content providing station transmitting a content that is to be selected next to the content that the content providing station is about to send back, in accordance with the a predetermined content selection rule (**Tracton**, ¶ 0025, 0032, & 0044; EN: **Tracton** discloses a system and method for dynamic content customization in a client server environment. In this system, a client transmits to a server its characteristic profile indicating its available computing resources and network bandwidth. The content received over the web may be formatted and scaled to correspond to

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typical incoming client characteristics through the use of a scalar during a communication session.).

Rationale:

It would have been obvious for one skilled in the art, to use the system and method for dynamic customization of content based upon a client's processing abilities and network bandwidth taught by **Tracton** in the respective element of the data center and a service provider's head end disclosed by **Chatfield**. Using the known technique of automatically scaling web content according to a client's processing abilities and network bandwidth said video or data for fulfilling a content selection request from a processing or bandwidth limited end user would have been obvious to one of ordinary skill.

Response to Arguments

8. Applicants' amendments documented in the Applicant's submission pertaining to the 35 U.S.C. § 101 rejection of independent claims 1, 27, 28 and dependent claims thereof have been fully considered, and are persuasive.

9. Applicants' amendments documented in the Applicant's submission pertaining to the 35 U.S.C. § 112 – Second Paragraph rejection of independent claims 1, 27, 28, and dependent claims thereof have been fully considered, but are moot in view of the new ground(s) of rejection.

10. Applicants' arguments and remarks documented in the Applicants' submission pertaining to the 35 U.S.C. § 103(a) rejection of claims 1, 27, 28, and dependent claims thereof have been

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fully considered have been fully considered, but are moot in view of the new ground(s) of rejection.

In reference to the Applicants' argument(s):

Differences over Chatfield

The Office Action alleges that the claimed selection order management table is taught by the database structure of Fig. 6 (Office Action at page 6, last paragraph beginning "wherein, the content providing station...").

As recited in claim 1, the content providing station stores a selection order management table indicative of an order for selecting from among the plurality of contents or content providing devices. **To the contrary, in Chatfield, a service provider does not store the database, and the database does not indicate an order for selection among services.**¹ Instead, Chatfield's database is for selection of a service provider capable of providing a requested service. Chatfield requires that an end-user request a service (e.g., step S407, Fig. 4B).

From an alternatively perspective, Chatfield discloses a centralized data center. Unlike Chatfield, claim 1 recites "a plurality of content providing stations," that a selection rule is stored for selecting from among the content providing stations, and that each content providing station stores a selection order management table. On the other hand, Chatfield discloses that a next alternative service provider is searched in the case where the preferred service provider is not available or cannot provide the requested service (e.g., step S412, Fig. 4C). **Chatfield does not disclose that the database provides an ordering among service providers.**² **Chatfield does not disclose a plurality of service providers in which a selected service provider stores a selection order management table for switching to a next content or content providing device based on the order specified in the selection order management table.**³

Therefore, Applicants submit that the distributed selection order management tables and "order" over contents or content providing devices provided by the claimed selection order management tables are not taught or suggested by the teachings in Chatfield.

At least for these reasons, Applicants submit that Chatfield fails to establish *prima facie* anticipation, and must be withdrawn.

§ 103(a) Rejection – Chatfield, Tracton

Claim 15 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Chatfield in view of U.S. Application Publication 2005/0114445 ("Tracton"). Applicants respectfully traverse this rejection.

§ 103(a) Rejection – Chatfield, Kenner

Claims 27 and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Chatfield in view of U.S. Patent 6,269,394 ("Kenner"). Applicants respectfully traverse this rejection.

The differences between claim 1 and Chatfield described above, apply as well to claims 27 and 28. Furthermore, Applicants submit that Kenner fails to make up for the above-stated deficiencies in Chatfield.

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For at least these reasons, Applicants submit that the rejection fails to establish *prima facie* obviousness and must be withdrawn.

Examiner's Response:

¶ 14 below applies. Applicants' point 1 is moot in view of the new ground(s) of rejection. Regarding Applicants' point 2, Examiner respectfully disagrees. Examiner refers Applicants to FIG. 4B: S409, in conjunction with Applicants' cited FIG. 4C: S412 and FIG. 6. It is apparent an ordering exists at least with respect to a Preferred Service Provider and an Alternate Service Provider, in which the former has a higher priority than the latter. Applicants' point 3 is moot in view of the new ground(s) of rejection.

Examination Considerations

11. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure." *In re Morris*, 127 F.3d 1048, 1054-1055, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). "Limitations appearing in the specification but not recited in the claim are not read into the claim." *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969) (MPEP p 2100-8, c 2, l 45-48; p 2100-9, c 1, l 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

12. Examiner's Notes are provided with the cited references to prior art to assist the Applicant(s) to better understand the nature of the prior art, application of such prior art and, as

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appropriate, to further indicate other prior art which may be applied in future Office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art, but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

13. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

14. Examiner's Opinion: ¶ 11-13 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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16. Claims 1-23, and 25-36 are rejected.

Contact

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett Rustemeyer whose telephone number is (571) 270-1849.

The examiner can normally be reached on Monday - Friday 9:00 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BR/

Examiner - Art Unit 2426

January 30, 2010

/Joseph P. Hirl/

Supervisory Patent Examiner, Art Unit 2426

January 31, 2010